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## EFFECT OF PLEA OF GUILTY

the provision of this article, except as to compensation, which shall be fixed by the Board of Supervisors of such county.

SEC. 2. All of section three hundred and eight of the code of civil procedure, constituting chapter four hundred and forty-two of the laws of eighteen hundred and eighty-one, as amended, except the first sentence of such section, is hereby repealed.

SEC. 3. This act shall take effect immediately.

The above draft was introduced in the assembly of the state of New York by Mr. Blauvelt on January 10, 1912. It was referred to the Committee on Judiciary. February 6, 1912.

R. H. G.

**An Act Relating to the Examination of Persons Charged With a Crime in the State of Rhode Island.**—It is enacted by the General Assembly as follows:

SECTION 1. No force, subterfuge, intimidation, cruelty, threats or other means, shall be used by any constable, detective, inspector, police officer or other person to extract a confession or admission of guilt from any person who has been arrested charged with a crime.

SEC. 2. Any confession or admission of guilt so obtained from any person under arrest accused of crime shall not be evidence to be used against the said person, unless used solely by the said person's consent, and the denial of the said person that any such confession or admission of guilt was given voluntarily, will be sufficient to exclude it from being used as evidence against the said person at the time of his or her trial.

SEC. 3. Any violation of the provisions of this act shall be a misdemeanor, punishable by a fine of one hundred dollars or imprisonment for one year or both.

SEC. 4. This act shall take effect upon its passage, and all acts and parts of acts inconsistent herewith are hereby repealed.

The above act was introduced by Mr. Munroe of Providence.

R. H. G.

**Effect of Plea of Guilty.**—The following comment appeared in the January issue of *Law Notes*: "Had the trial of the now notorious J. B. McNamara been held in New York, New Jersey or Michigan, it would not have been immediately terminated by a plea of guilty. The New York Penal Code provides that 'a conviction shall not be had upon a plea of guilty where the crime charged is or may be punishable by death.' In New Jersey the statutory provision is that if upon arraignment a person indicted for murder offers a plea of guilty such plea shall be disregarded and the plea of 'not guilty' shall be entered. In Michigan the judge is required, even in other than murder trials, to ascertain by a search of the evidence and a personal examination whether the plea was voluntarily entered. The New York statute came up for construction in *People v. Smith*, 78 Hun. 180. Smith was indicted for murder in the first degree. After a plea of not guilty and a trial thereon the jury disagreed. Subsequently he pleaded guilty to manslaughter in the second degree and was sentenced to ten years' imprisonment. On an appeal from the dismissal of a writ of habeas corpus wherein it was argued that the sentence was invalid because of the foregoing section of the Penal Code, it was held that the provision did not apply to a conviction of a crime punishable by a term of years."

## RECOMMENDATION OF COMMITTEE ON REFORM

Other states have statutes regulating the admission and effect of the plea of guilty. In Texas the statute (Rev. Crim. Stat. 1911, Sec. 565) provides that the plea of guilty shall not be received unless it plainly appears that the prisoner is sane, and is not influenced by any fear or persuasion or hope of receiving a pardon. Under the Illinois statute (Rev. Stat. 1909, Ch. 38, Sec. 424) the judge must explain to the defendant the consequences of such plea, and wherever the judge has discretion in fixing the amount of punishment, he must hear witnesses regarding the aggravation and mitigation of the offense. A statute in Washington (Ballinger's Code and Stats. 1897, Sec. 6907) provides that "if the defendant plead guilty to a charge of murder, a jury shall be impaneled to hear testimony, and determine the degree of murder and the punishment therefor." The same procedure is prescribed by statute in Tennessee (Code of 1896, Sec. 7174) in cases where the punishment is imprisonment in the penitentiary, and in Alabama (Crim. Code, 1907, Sec. 7506), except in cases where the penalty is fixed by law. Under a statute (Ind. Rev. St. 1881, Sec. 1904) providing that upon conviction of murder the defendant "shall suffer death or be imprisoned in the state prison during life, the Supreme Court of Indiana decided in *Wartner v. State* (102 Ind. 51) and *Lowery v. Howard* (103 Ind. 440) that upon a plea of guilty to a charge of murder it was error for the trial judge to impose a sentence of death.

In *Commonwealth v. Battis* (1 Mass. 95), decided in 1804, the defendant pleaded guilty to an indictment for murder and an indictment for rape. According to the official report:

"The Court informed him of the consequence of his plea, and that he was under no legal or moral obligation to plead guilty; but that he had a right to deny the several charges, and put the government to the proof of them. He would not retract his pleas; whereupon the Court told him that they would allow him a reasonable time to consider of what had been said to him; and remanded him to prison. They directed the clerk not to record his pleas at present. In the afternoon of the same day the prisoner was again set to the bar, and the indictment for murder was once more read to him; he again pleaded guilty, upon which the Court examined, under oath, the sheriff, the jailer, and the justice (before whom the examination of the prisoner was had previous to his commitment), as to the sanity of the prisoner; and whether there had not been tampering with him, either by promises, persuasions, or hopes of pardon, if he would plead guilty. On a very full inquiry nothing of that kind appearing, the prisoner was again remanded, and the clerk directed to record the plea on both indictments. \* \* \* He has since been executed."

EDWIN R. KEEDY, Chicago.

**Argument in Support of the Recommendation of the Committee on Reform in Procedure of the Oklahoma Bar Association.**—"The question of law reform is being considered and discussed by the bench and bar throughout the entire country. Presidents Taft and Roosevelt thought it sufficiently important to call the attention of Congress and the nation to it in their message. The American Bar Association and the bar associations of the various states have been studying and agitating the subject for years and criticizing the administration of the law so severely, its delay in the trial of cases and reversals on technicalities, until it is thought a great necessity exists for such reform, and especially in matters of procedure. The sentiment for legal reform which placed harmless error provisions in the constitutions of the states of